

Assembly Bill No. 1674

CHAPTER 692

An act to add Section 3200.5 to the Family Code, relating to visitation.

[Approved by Governor September 28, 2012. Filed with
Secretary of State September 28, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1674, Ma. Child custody: visitation.

Existing child custody law requires the Judicial Council to develop standards for supervised visitation providers in accordance with specified guidelines.

This bill would require any standards for supervised visitation providers adopted by the Judicial Council to conform to the provisions of the bill. The bill would require supervised visitation providers to be professional providers or nonprofessional providers, as specified. The bill would require the court, in any case in which it has determined there is domestic violence or child abuse or neglect, as specified, and it determines that supervision is necessary, to consider whether to use a professional or nonprofessional provider based upon the child's best interest.

The bill would also require professional providers to receive 24 hours of training in certain subjects. The bill would require providers of supervised visitation to advise the parties of certain legal rights, report suspected child abuse to the appropriate agency, and to suspend or terminate visitation in certain cases in accordance with specified procedures.

The people of the State of California do enact as follows:

SECTION 1. Section 3200.5 is added to the Family Code, to read:

3200.5. (a) Any standards for supervised visitation providers adopted by the Judicial Council pursuant to Section 3200 shall conform to this section. A provider, as described in Section 3200, shall be a professional provider or nonprofessional provider.

(b) In any case in which the court has determined that there is domestic violence, child abuse or neglect, as defined in Section 11165.6 of the Penal Code, and the court determines supervision is necessary, the court shall consider whether to use a professional or nonprofessional provider based upon the child's best interest.

(c) For the purposes of this section, the following definitions apply:

(1) "Nonprofessional provider" means any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider shall:

(A) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.

(B) Have proof of automobile insurance if transporting the child.

(C) Have no current or past court order in which the provider is the person being supervised.

(D) Agree to adhere to and enforce the court order regarding supervised visitation.

(2) “Professional provider” means any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider shall:

(A) Be at least 21 years of age.

(B) Have no record of a conviction for driving under the influence (DUI) within the last five years.

(C) Not have been on probation or parole for the last 10 years.

(D) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.

(E) Have proof of automobile insurance if transporting the child.

(F) Have no civil, criminal, or juvenile restraining orders within the last 10 years.

(G) Have no current or past court order in which the provider is the person being supervised.

(H) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over 18 years of age who is able to do so.

(I) Agree to adhere to and enforce the court order regarding supervised visitation.

(J) Meet the training requirements set forth in subdivision (d).

(d) (1) Professional providers shall have received 24 hours of training that includes training in the following subjects:

(A) The role of a professional provider.

(B) Child abuse reporting laws.

(C) Recordkeeping procedures.

(D) Screening, monitoring, and termination of visitation.

(E) Developmental needs of children.

(F) Legal responsibilities and obligations of a provider.

(G) Cultural sensitivity.

(H) Conflicts of interest.

(I) Confidentiality.

(J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(K) Basic knowledge of family and juvenile law.

(2) Professional providers shall sign a declaration or any Judicial Council form that they meet the training and qualifications of a provider.

(e) The ratio of children to a professional provider shall be contingent on:

(1) The degree of risk factors present in each case.

- (2) The nature of supervision required in each case.
- (3) The number and ages of the children to be supervised during a visit.
- (4) The number of people visiting the child during the visit.
- (5) The duration and location of the visit.
- (6) The experience of the provider.
- (f) Professional providers of supervised visitation shall:
 - (1) Advise the parties before commencement of supervised visitation that no confidential privilege exists.
 - (2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make those reports.
 - (3) Suspend or terminate visitation under subdivision (h).
- (g) Professional providers shall:
 - (1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation.
 - (2) Review custody and visitation orders relevant to the supervised visitation.
 - (3) Keep a record for each case, including, at least, all of the following:
 - (A) A written record of each contact and visit.
 - (B) Who attended the visit.
 - (C) Any failure to comply with the terms and conditions of the visitation.
 - (D) Any incidence of abuse, as required by law.
- (h) (1) Each provider shall make every reasonable effort to provide a safe visit for the child and the noncustodial party.
- (2) If a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated.
- (3) All interruptions or terminations of visits shall be recorded in the case file.
- (4) All providers shall advise both parties of the reasons for the interruption or termination of a visit.
- (i) A professional provider shall state the reasons for temporary suspension or termination of supervised visitation in writing and shall provide the written statement to both parties, their attorneys, the attorney for the child, and the court.